

U.S. DEPARTMENT OF LABOR
DEPUTY SECRETARY OF LABOR
WASHINGTON, D.C.
20210

DATE: January 30, 1991
CASE NO. **85-CTA-28**

IN THE MATTER OF

UNITED STATES DEPARTMENT OF
LABOR,

PLAINTIFF,

v .

COUNTY OF ESSEX, NEW JERSEY,

RESPONDENT.

BEFORE: THE ACTING SECRETARY OF LABOR ^{1/}

ORDER OF DISMISSAL

On January 17, 1991, I received the Administrative Law Judge's **(ALJ's)** Amended Recommended Decision and Order, which **states**, in part:

On November 19, 1990, the parties filed with the undersigned a written Stipulation of Final Settlement, wherein all issues remaining in controversy are resolved. A copy of said Stipulation of Final Settlement is attached hereto marked **"Exhibit A"** and made part hereof.

After careful consideration of the settlement stipulation, I find and conclude that the settlement is fair and in the best interest of all parties.

Therefore, it is my RECOMMENDED DECISION AND ORDER that the terms of said stipulation be carried out fully and

^{1/} There is presently a vacancy in the Office of Secretary of Labor. The Deputy Secretary is authorized to **"perform"** the duties of the Secretary until a successor is appointed. . . ." 29 U.S.C. § 552 (1988).

faithfully by all of the parties and that upon completion of full performance of said terms by all parties, this matter shall be closed.

Id. at 1-2. The **ALJ** captions his decision and order as "**recommended,**" rather than final, in the document itself and in his accompanying memorandum to the Secretary certifying the document "**for final Administrative Order.**" The governing regulation at 20 C.F.R. § 676.91(f) (1990) under the Comprehensive Employment and Training Act (CETA), 29 U.S.C. §§ 801-999 (Supp. V 1981), ^{2/} makes clear that the **ALJ's** decision is final unless a dissatisfied party files exceptions and the Secretary asserts jurisdiction and stays the proceeding.

Unlike settlements reviewed and recommended for approval by **ALJs** under various employee protection (whistleblower) statutes pursuant to regulations at 29 C.F.R. Part 24 (1990), ^{3/} finality under CETA does not obligate the Secretary to review and approve CETA settlements. See Commonwealth of Massachusetts, Balance of State Prime Sponsor v. United States Department of Labor, Case No. 81-CTA-39, Secretary's Order Dismissing Case, May 31, 1989; Assiniboine & Sioux Tribes of the Fort Peck Reservation, Montana v. U.S. Department of Labor, Case No. 82-CTA-108, Secretary's Order of Dismissal, March 16, 1989; Department of Labor v. Ponca

^{2/} CETA was repealed by the Job Training Partnership Act, 29 U.S.C. §§ 1501-1781 (1982), but CETA administrative or judicial proceedings pending on October 13, 1982, were not affected. 29 U.S.C. § 1591(e) (1982).

^{3/} See Lau v. Tennessee Valley Authority, Christie v. Tennessee Valley Authority, Case Nos. 88-ERA-12, 88-ERA-20, 88-ERA-13, Acting Secretary's Order to Submit Settlement Agreement, December 13, 1990.

Tribe of Oklahoma, Case No. 82-CTA-221, Secretary's Order
Dismissing Case with Prejudice, March 15, 1989. See also U.S.
Department of Labor v. UGI Corp.. Gas Utility Division, Case
No. 89-OFC-36, Secretary's Notice of Closing of Case,
September 25, 1990. Accordingly, this case IS DISMISSED.

SO ORDERED.



Acting Secretary of Labor

Washington, D.C.

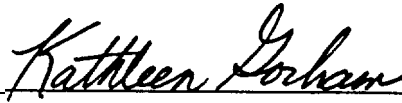
CERTIFICATE OF SERVICE

Case Name: U.S. Department of Labor v. County of Essex, New Jersey

Case No. : 85-CTA-28

Document : Order of Dismissal

A copy of the above-referenced document was sent to the following,
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